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BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

DEPT. OF TRANSPORTATION
DOCKETS

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Joint Application of :
:
AMERICAN AIRLINES, INC :
and :
BRITISH AIRWAYS PLC :
:
Under 49 U.S.C. §§ 41308-41309 for approval of :
and antitrust immunity for agreement :
:
:

Docket OST-2001-10387 -51

Joint Application of :
:
AMERICAN AIRLINES, INC :
and :
BRITISH AIRWAYS PLC :
:
Under 14 C.F.R Part 212 for statements of :
authorization (blanket codesharing) and under :
49 U.S.C. § 40109 for related exemption :
authority :
:
:

Docket OST-2001-10388 -41

ANSWER OF THE AIR CARRIER ASSOCIATION OF AMERICA
IN SUPPORT OF NORTHWEST AIRLINES, INC.'s MOTION
FOR EXTENSION OF PROCEDURAL DATES

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Date: September 10, 2001

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**ANSWER OF THE AIR CARRIER ASSOCIATION OF AMERICA
IN SUPPORT OF NORTHWEST AIRLINES, INC.'s MOTION
FOR EXTENSION OF PROCEDURAL DATES**

The Air Carrier Association of America (ACAA) hereby files this answer in support of Northwest Airlines Inc.'s (Northwest) motion to extend the 21-day answer period to 120 days from the Department's scheduling notice.¹ It is not in the public interest for the Department to handle the American Airlines/British Airways request on

¹ ACAA full time members are as follows: Sun Country Airlines, Inc., Spirit Airlines,, AirTran Airways, Vanguard Airlines, and Frontier Airlines. Associate members include small and medium sized communities and airports.

an expedited timetable without providing all parties with sufficient time to review the voluminous materials submitted by the applicants and to fully evaluate the domestic and international implications of this unprecedented arrangement.

The proposed American Airlines/British Airways alliance agreement and request for antitrust immunity involves the largest carrier in the United States and the largest carrier in the world. With its purchase of TWA, American already controls 21% of the U.S. market. At a time that concentration in the domestic industry is increasing, barriers to entry are increasing, and there are fewer carriers than at any time since deregulation, it is critical that every aspect of the proposed alliance be thoroughly reviewed before any step is taken that would allow American or another dominant carrier to enter into a relationship that will increase its control over U.S. airports, domestic markets, and further close the door to new entry.

It is not enough for the Department to only review the international impact of such an alliance. The Department is charged with facilitating new entry and competition in the airline industry. Under 49 U.S.C. § 40101:

- (a)...the Secretary of Transportation shall consider the following matters, among others, as being in the public interest and consistent with public convenience and necessity
- (10) avoiding unreasonable industry concentration, excessive market domination, monopoly powers, and other conditions that would tend to allow at least one air carrier or foreign air carrier unreasonably to increase prices, reduce services, or exclude competition in air transportation.
- (12) encouraging, developing, and maintaining an air transportation system relying on actual and potential competition—
 - (A) to provide efficiency, innovation, and low prices; and
 - (B) to decide on the variety and quality of, and determine prices for, air transportation services.

(13) encouraging entry into air transportation markets by new and existing air carriers and the continued strengthening of small air carriers to ensure a more effective and competitive airline industry.

Congress clearly expects the Department to understand the domestic impacts of all new agreements, mergers, and route transfers. (See 49 U.S.C. § 41105)

There is no question that the American Airlines/British Airways alliance will impact domestic competition. In the September 7, 2001 filing, American Airlines and British Airways state:

The Government of the United States has made no secret of the fact that it will not enter into an open skies agreement without assurances that U.K. carriers will be given effective access to the U.S. domestic market. (The September 4, 2001 "Aviation Daily" quoted a British Embassy spokesman as stating that the United Kingdom "has made it clear repeatedly that it would be prepared to enter into such an [open-skies-type] agreement, freeing up access to Heathrow, were our airlines able to gain effective access to the U.S. domestic market.")
(Docket No. OST-2001-10387-45, Page 2)²

In the August 10, 2001 American Airlines/British Airways filing, the parties highlighted a number of areas that they will coordinate:

The proposed alliance will involve coordination in such areas as codesharing, frequent flyer programs, global route and schedule planning, sales, advertising and marketing, pricing and inventory management, product and service standards, inventory and procurement, revenue and cost allocation, ground handling, airport facilities and support services, cargo services, ticketing, information technologies and distribution systems, and other core airline activities.
(Docket No. OST-2001-10387, Page 3)

If approved, American Airlines and British Airways will together take actions involving factors that the Department has repeatedly held impact domestic competition, including frequent flyer programs, codesharing, ground handling, airport facilities, CRS

systems and airport management. The General Accounting Office, Department, and various independent groups have issued multiple reports on how these factors impact competition.

In reviewing cooperative agreements, the Department “shall approve an agreement...when the Secretary finds it is not adverse to the public interest and is not in violation of this part.” 49 USC §41309(b). The Department has discretion to grant antitrust immunity to agreements approved under Section 41309 if it finds that immunity is required by the public interest. 49 USC §41308. The public interest is not limited to international travelers and foreign markets. American consumers, businesses and communities must be considered before the Department allows carriers to collaborate to further lessen the future of competition.

If approved, the American Airlines/British Airways alliance would significantly impact the aviation industry both internationally and domestically. It essential that all of those who will be impacted by the American Airlines/British Airways alliance have the opportunity to thoroughly review the proposal and provide the Department with meaningful comments. For these reasons, ACAA concurs with Northwest that “[w]hat may have been an appropriate answer period in other cases is wholly inappropriate in this case.”

² Before the Department takes steps to provide “assurances that U.K. carriers will be given effective access to the U.S. domestic market,” it should first ensure that all U.S. carriers and communities have “effective access to the U.S domestic market.” Today, such access does not exist.

ACAA supports “open skies” but first it is time to create “open skies” in the United States, the birthplace of deregulation.

WHEREFORE, ACAA respectfully requests that the Department grant the motion of Northwest for an extension of the procedural dates.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Edward P. Faberman", written over a horizontal line.

Edward P. Faberman

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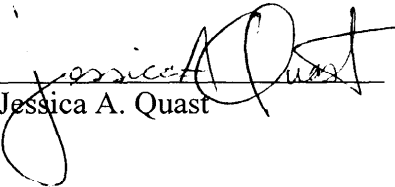
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CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing Answer of the Air Carrier Association of America on September 10, 2001 by first-class mail to each of the persons named on the attached service list.


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